

Town of North Andover
ZONING BOARD OF APPEALS

Albert P. Manzi III, Esq. Chairman
Ellen P. McIntyre, Vice-Chairman
Richard J. Byers, Esq. Clerk
D. Paul Koch Jr. Esq.
Allan Cuscia



Associate Member
Michael P. Liporto
Deney Morganthal
Doug Ludgin
Zoning Enforcement Officer
Gerald A. Brown

Approved
Jun
24, 14

DRAFT MINUTES

Tuesday, May 13, 2014 at 7:30 PM

Town Hall 120 Main Street, North Andover, Massachusetts

Members present: Albert P. Manzi III, Ellen McIntyre, Richard Byers, D. Paul Koch Jr., and Allan Cuscia
Associate Member: Michael Liporto, and Doug Ludgin
Also in attendance: Zoning Enforcement Officer, Gerald Brown
Excused absence: Deney Morganthal

Pledge of Allegiance

Manzi called the regular meeting to order at 7:38

Acceptance of Minutes April 8

Koch made the motion to approve the Minutes
Cuscia second the motion.

Those voting in favor to approve the minutes were Manzi, Koch, Cuscia, Ludgin and Liporto.

Byers and McIntyre did not attend the April 8th ZBA Meeting and did not vote on the approval of the April 8th Minutes.

Committee Reports

McIntyre had nothing new to report regarding the **Housing Partnership Committee**.

Merrimack Valley Planning Commission and Committee Housing Partnership

Byers stated that the MVPC met in April and stated that on May 20th, in conjunction with Mass Development there will be a Regional Economical Development Seminar/Meeting at Northern Essex Community College. There will be some great speakers and if anyone is interested in attending Byers stated he will be happy to supply the information. Byers also added that there is information available on the Merrimack Valley Planning Commission website.

Discussion

Requesting release of the remaining Performance Bond (Orchard Village)

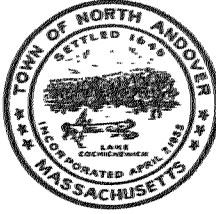
Bob Messina project Manager for Orchard Village walked up to the podium.

Manzi talked of the memo that was sent and submitted to the Board of Appeals from Gene Willis, Director of Engineering regarding the release of the remainder of a Performance Bond of \$8,000.00. Willis stated in the memo that the road construction is now complete and the sum of \$8,000.00 that was withheld from the applicant previously can now be released, since a complete "As Built Plan" has been submitted to the DPW.

Manzi asked if anyone had any questions or concerns.

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Brown stated that they did a wonderful job at Orchard Village, Manzi agreed.

McIntyre stated that this was part of a 40B Development. McIntyre then asked if this is the last of the bond to be released.

Messina stated yes.

McIntyre made a motion to release the remaining \$8,000.00 of the performance bond to Orchard Village

Cuscia second the motion to release the remainder of the performance bond

Those voting in favor to release the remainder of the bond were: Manzi, McIntyre, Byers, Koch, and Cuscia

5-0

Manzi stated we will move on to the Continued Public Hearing for 142 Boston Street.

Continued Public Hearing

Manzi stated before we continue, he wanted to take care of a procedural matter. Byers and McIntyre were not at the last meeting in April and did not hear the evidence at 142 Boston Street. Manzi stated that Byers and McIntyre have read and reviewed the April minutes regarding 142 Boston Street and they have both signed the appropriate forms that will allow them to vote on this petition, if needed (the signed forms were submitted into the files).

Special Permit, Zoning District R-2, Keith and Stacie Steeves 142 Boston Street (Map 107.B Parcel 36)

Applicant Stacie Steeves walked up to the podium and is requesting to the Board a Family suite in the R-2 Zoning District.

Steeves is requesting a **Special Permit** from **4.121.17** of the Zoning bylaw to maintain a single Family Suite in the R-2 Zoning District.

The Board was brought up to speed on what took place at the last meeting in April regarding this hearing on 142 Boston Street.

Manzi asked the Steeves' and Doane's if they had anything new to add to tonight's meeting.

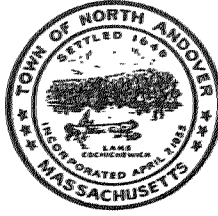
Stacy Steeves walked up to the podium and started out saying that she did not mean to upset, hurt or offend any of her neighbors. She stated this has separated the neighborhood, and she did not intend for this to happen. She stated she plans on putting up a fence and hopes that would help. She knows now that she was wrong by using the 2 family suites, but at the time, she did not realize that she was doing the wrong thing, and for that she is sorry.

Manzi stated it is still a single family home, and they can only grant a Special Permit for only one family suite (not two). But Manzi understood where the Steeves' and Doane's were coming from, and that is what they thought they bought at the time.

McIntyre stated at one time she had lived in that area for a number of years, and remembers the owners and additions to that property.

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Cuscia commented that the Special Permit for the Family Suite that was granted in 1992 has gone away, since there has been a transfer of ownership.

Koch commented on the use of the kitchenettes.

McIntyre stated that it is very common among some Real Estate agents to misrepresent properties.

Koch stated the challenge is to find a middle ground where you can make everyone happy.

Joe Sergi, of 135 Boston Street. Sergi stated that he is not the only one that has been complaining. There are at least 4 others who are right across or abutting them. Sergi stated that he believes that the Steeves' and the Doane's never did this intentionally. Sergi stated that he does not like that this is a 3 family. Sergi went on to say that it does not bother him when they have parties, but commented on the amount of guests that visit at different times, due to the various families that live there, creating many cars at that property.

Sergi stated he along with other neighbors were very concerned with their property value.

Sergi stated what the Steeves' are doing by using their house as a 3 family is not correct, because it does not meet with the Zoning Bylaws.

Brown commented of the Family Suite Bylaws and also spoke of the letters that were sent to the Steeves from the Building Department. Brown stated that the Steeves did not act on the letters when they first received them.

Mr. Doane's told the story to the Board back when he, his wife, his Daughter and Son-in-law were all looking for a home to buy together, (where they could all live including the Steeves' grandparents) the real estate agent found this one at 142 Boston Street. He remembered his daughter calling her mother stating that they found the perfect home; it was a single family home and included two attached family suites. It seemed perfect, especially since the grandmother also needed a place to live. Mr. Doane's recalled that his wife asked if it was legal and the real estate agent told them yes, it was legal.

Stacie Steeves is now requesting from the Board a Special Permit for just the use of one Family Suite (as originally requested in the Legal Notification).

Byers asked who will live there now, Steeves responded her daughters will.

Brown stated he will go into the house at 142 Boston Street and work with the Steeves' on helping and advising them on using just one of the single family suite's and merging the other suite to become part of the single family home with as little destruction as possible.

Koch stated that he would be inclined to approve the application as long as it would be the first level of kinship that would be living there.

Manzi stated to the Steeves that the Building Department will work with them.

Since McIntyre lived in that neighborhood for a period of time and was familiar with this home, and since she was not at the last meeting she did not feel it was fair for her to vote on this.

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Cuscia made a motion to close the hearing
Koch second the motion to close.
All in favor to close the hearing; Manzi, Cuscia, Koch, Byers and Ludgin
5-0

Koch made a motion to Grant the Special Permit to allow for a single family suite at 142 Boston Street, in the R-2 Zoning District from 4.121.17 of the Zoning by laws. Koch referenced all the plans and maps in front of him, along with the associated dates.
Byers second the motion
All in favor to Grant the Special Permit for a single family suite at 142 Boston Street: Manzi, Byers, Koch, and Ludgin
Not in favor of granting the family suite: Cuscia
4-1
The Special Permit was granted.

Manzi reminded and strongly encouraged the Steeves to work with Mr. Brown in regards to the single family suite.

Manzi moved onto to the new public Hearings

New Public Hearing

Special Permit, Zoning District R-3, Pace Realty Trust (Nancy Pace) 150 Salem Street (Map 37.D Parcel 45)
Nancy Pace, the applicant walked up to the podium requesting a Special Permit for a family suite for her grandson and future granddaughter. Pace stated that her grandson and future granddaughter are still in school and will most likely live there during the summer and during school breaks.

She is not changing the footprint of her home, and the family suite will be situated in the basement of the house.

Koch stated that he noticed that the house is in a Trust and Koch asked who is in the Trustee.
Pace responded that she is the Trustee and owner of the home and also resides at the house at 150 Salem Street. The Board discussed the Family Trust and Trustee issue in length. They also spoke of the owner and presiding owner in regards to the Trustee.

Brown stated that he knows for a fact that Nancy Pace, who is the Trustee, also resides at this residence and owns the property. Most of the Board agreed with Brown's statement that this should not be an issue.

Pace stated that they are not building anything new; they are just adding a new kitchen because her future granddaughter loves to cook.
Pace stated that she wants to do everything right, in regards to requesting the family suite, that is why she is applying tonight for the Special Permit.

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McIntyre asked Brown the definition of a family suite. Brown responded a separate living area, with a complete kitchen, not part of the main house (but attached or within), along with proper egresses, and utilities are not separate.

Liporto stated that even though it did not state grandchildren as occupants in the zoning bylaws regarding a family suite, the wording is in the spirit and intent of the bylaws regarding kinship.

Paul Koch recused himself from the vote at 150 Salem Street.

Cuscia made a motion to close the hearing

Byers second the motion.

All in favor to close this hearing: Manzi, McIntyre, Byers, Cuscia, and Liporto

5-0

Byers made a motion to Grant the Special Permit from 4.121.17 of the Zoning Bylaws to allow for a family suite at 150 Salem Street, in the R-3 Zoning District. Byers referenced all the plans and maps in front of him, as well as all the associated dates. Byers stated that the Trustee, Nancy Pace is the Trustee, owner and also resides at this residence at 150 Salem Street.

Cuscia second the motion

All in favor to Grant the Special Permit Manzi, McIntyre, Byers, Cuscia, and Liporto

5-0

Manzi stated we will move onto the next new hearing.

Variance, Zoning District R-1, Dimitrois Saragas, 0 Campion Drive (Map 62 Parcel 89)

Attorney Brian Vaughan who is representing Dimitrois Saragas walked up to the podium, Vaughan stated to the Board that his client, Dimitrois Saragas, wants to construct a new single family home in the non-disturbance zone in the R-1 Zoning District.

A Variance is requested under Section 4.136(Watershed Protection Division), 3 (Uses and Building Requirements), c. ii(3) (Non-Disturbance Buffer Zone), of the Zoning Bylaws.

Vaughn stated that before they can proceed with Conservation and Planning they need a Variance granted from the Zoning Board.

Vaughn went on to say that this is in a fully developed neighborhood. Vaughn spoke of the isolated wetlands, topsoil, drainage, neighborhood, road materials and also spoke of the protection of the watershed.

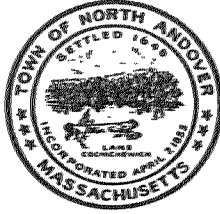
McIntyre asked of the relief, and how much relief was needed. Vaughn stated they are technically in the watershed and spoke of the 400 foot buffer (non-disturbance buffer) and the isolated wetland.

Koch stated that the isolated wetland was man made, Vaughn agreed.

McIntyre stated that this lot is right in front of the 40B, Vaughn stated that it is.

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McIntyre asked how many lots are left in the area. Vaughn stated 1 lot is left.

Byers asked if this lot was grandfathered. Vaughn stated yes it is a preexisting non-conforming lot under Section 6 and is from 1986.

Brown reminded the Board that they just need the Variance because of the watershed protection.

Cuscia spoke of the letter from Conservation and questioned Brown if that meant it was approved. Brown stated no, that they still need to go in front of Conservation for approval as well as Planning.

Vaughn stated that they do not need any dimensional variances, just a variance for the non-disturbance zone. If this isolated wetland was not on the lot they would not need to go in front of the Board.

Manzi asked if there were any questions or concerns from any abutters or the audience.

David Anderson, of 23 Cochichewick Drive walked up to the podium and stated that he is all in favor of this; something needs to be built on that lot.

The Board had no further questions

Byers made a motion to close the hearing
Cuscia second the motion to close the hearing
All in favor to close the hearing Manzi, McIntyre, Byers, Cuscia and Koch
5-0

McIntyre made a motion to grant the Variance under Section 4.136(Watershed Protection Division),3 (Uses and Building Requirements), c. ii(3) (Non-Disturbance Buffer Zone), of the Zoning Bylaws.
McIntyre referenced all the plans and maps in front of her as well as all the associated dates and findings.
Koch second the motion
All in favor to Grant the Variance: Manzi, McIntyre, Byers, Koch, and Cuscia,
5-0

Miscellaneous Correspondence

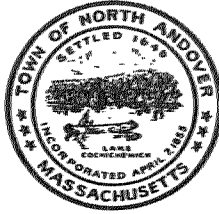
Manzi commented on the various correspondences submitted into the Board's packets.

A letter submitted from **CHAPA** dated April 2, 2014 sent by Jessica Singleton Buhler, Program Manager was submitted into the packet.

Another letter submitted was from **MassHousing** dated April 7th sent by Gina B. Dailey Director of Comprehensive Permits.

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McIntyre told the Board to take a look at this specific memo from MassHousing, the information in this memo is based on what happens after a 40B is complete and examines the costs and profits. McIntyre stated this memo is specifically for the 40B project at Orchard Village.

Another memo dated April 28, 2014 from **Town Council, Tom Urbelis** was also submitted to the Board regarding the Open Meeting Law in the Town of Barnstable the letter referenced the attorney–client Privilege.

Adjournment: 9:12

Koch made a motion to adjourn the regular meeting

Byers second the motion

All were in favor to adjourn the meeting; Manzi, McIntyre, Byers, Koch, Cuscia, Liporto, and Ludgin.